

1 BILL NO. S-85-08-04

2 SPECIAL ORDINANCE NO. S- 153-85

3 ORDINANCE AUTHORIZING THE CITY OF
4 FORT WAYNE TO ISSUE ITS "ECONOMIC DEVELOPMENT
REVENUE BONDS
5 (EDY'S GRAND ICE CREAM PROJECT)
SERIES 1985" AND APPROVING
6 OTHER ACTIONS IN RESPECT THERETO

7 WHEREAS, the Fort Wayne Economic Development Commission has
8 rendered its Project Report for the Edy's Grand Ice Cream Project
9 regarding the financing of proposed economic development facilities
10 for Edy's Grand Ice Cream and the Fort Wayne Plan Commission has
11 commented favorably thereon; and

12 WHEREAS, the Fort Wayne Economic Development Commission
13 conducted a public hearing on August 1, 1985, and also adopted a
14 resolution on August 1, 1985, which Resolution has been transmitted
15 hereto, finding that the financing of certain economic development
16 facilities of Edy's Grand Ice Cream complies with the purposes and
17 provisions of I.C. 36-7-11.9 and 12 and that such financing will be
18 of benefit to the health and welfare of the City of Fort Wayne and
19 its citizens; and

20 WHEREAS, the Fort Wayne Economic Development Commission has
21 heretofore approved and recommended the adoption of this form of
22 Ordinance by this Common Council, has considered the issue of
23 adverse competitive effect and has approved the forms of and has
24 transmitted for approval by the Common Council the Loan Agreement,
25 Trust Indenture, Letter of Credit, Credit Agreement, TENR Services
26 and Remarketing Agreement, Tender Agent Agreement and Placement
27 Memorandum; now therefore,

28 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT
29 WAYNE, INDIANA, THAT:

30 SECTION 1. It is hereby found that the financing of the
31 economic development facilities referred to in the Loan Agreement
32 approved by the Fort Wayne Economic Development Commission and pre-

1 sented to this Common Council, the issuance and sale of revenue
2 bonds, the loan of the proceeds of the revenue bonds to Edy's Grand
3 Ice Cream for the acquisition and renovation of such facilities and
4 the equipping thereof, and the payment of the revenue bonds by the
5 payments of Edy's Grand Ice Cream under the Loan Agreement, and, if
6 necessary, the payment by Security Pacific National Bank under the
7 Letter of Credit, complies with the purposes and provisions of I.C.
8 36-7-11.9 and 12 and will be of benefit to the health and welfare of
9 the City of Fort Wayne and its citizens.

10 SECTION 2. The economic development facilities will con-
11 sist of the acquisition and renovation of an existing manufacturing
12 facility, including the equipment to be installed therein, located
13 at 3426 Wells Street in Fort Wayne, Indiana to be used by the
14 Company for the making of ice cream (the "Project").

15 SECTION 3. At the public hearing held by the Fort Wayne
16 Economic Development Commission, the Commission considered whether
17 the economic development facilities would have an adverse com-
18 petitive effect on any similar facilities located in the City of
19 Fort Wayne, and found, based on special findings of fact set forth
20 in the Resolution transmitted hereto, that the facilities would not
21 have an adverse competitive effect. This Common Council hereby con-
22 firms the findings set forth in the Commission's Resolution, and
23 concludes that the economic development facilities will not have an
24 adverse competitive effect on any other similar facilities in the
25 City of Fort Wayne, and the facilities will be of benefit to the
26 health and welfare of the citizens of the City of Fort Wayne.

27 SECTION 4. The substantially final forms of the Loan
28 Agreement, Trust Indenture, Letter of Credit, Credit Agreement, TENR
29 Services and Remarketing Agreement, Tender Agent Agreement and
30 Placement Memorandum approved by the Fort Wayne Economic Development
31 Commission are hereby approved and each shall be incorporated
32 herein by reference and shall be inserted in the minutes of the

1 Common Council and kept on file by the Clerk. In accordance with
2 the provisions of I.C. 36-1-5-4, two (2) copies of each of said
3 documents are on file in the office of the Clerk for public
4 inspection.

5 SECTION 5. The City of Fort Wayne shall issue its Economic
6 Development Revenue Bonds (Edy's Grand Ice Cream Project) Series
7 1985, in the total principal amount of Nine Million Dollars
8 (\$9,000,000) and maturing on September 1, 2001. Said bonds are to
9 be issued for the purpose of procuring funds to pay the costs of
10 acquisition, construction and equipping of the economic development
11 facilities as more particularly set out in the Trust Indenture and
12 Loan Agreement incorporated herein by reference, which bonds will be
13 payable as to principal, premium, if any, and interest from the
14 payments made by Edy's Grand Ice Cream under the Loan Agreement and
15 as otherwise provided in the above described Trust Indenture and, if
16 necessary, from draws made under the Letter of Credit. The bonds
17 shall be issued in fully registered form in the denomination of
18 \$100,000 or any integral multiple of \$5,000 in excess thereof pro-
19 vided that the bonds may be issued in the denomination of \$5,000 or
20 any integral multiple thereof if necessary to evidence the unre-
21 deeded portion of any bond, and the bonds may be issued in the deno-
22 mination of \$5,000 or any integral multiple thereof if the bonds are
23 ever converted to a fixed interest rate. The bonds shall be
24 redeemable as provided in Article III of the Trust Indenture.
25 Payments of principal and interest are payable in lawful money of
26 the United States of America. Payments of principal are payable at
27 the principal office of the Trustee or its successor in trust.
28 Payments of interest are payable by check mailed to the registered
29 owner as of the Record Date as provided in the Trust Indenture. The
30 bonds shall never constitute a general obligation of, an indebted-
31 ness of, or a charge against the general credit of the City of Fort
32 Wayne, nor are the bonds payable in any manner from revenues raised
by taxation.

SECTION 6. The Mayor and Clerk are authorized and directed

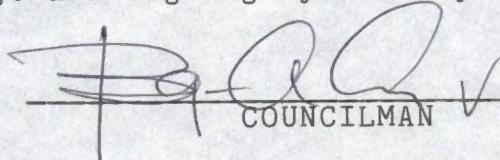
1 to sell such bonds to the purchasers thereof at a price of not less
2 than 100% of the principal amount thereof. The bonds shall bear
3 interest at a rate of interest per annum as described in Section
4 2.02(C) of the Trust Indenture; provided that the interest rate on
5 the bonds while in a floating rate mode shall in no event exceed 15%
6 per annum. Furthermore, the bonds shall bear interest at a fixed
7 rate of interest per annum as described in Section 202(D) of the
8 Trust Indenture after the Conversion Date defined in the Trust
9 Indenture.

10 SECTION 7. The Mayor and Clerk are authorized and directed
11 to execute, attest, affix or imprint by any means the City seal to
12 these documents to be executed by the City which are approved herein
13 on behalf of the City and any other document which may be necessary
14 or desirable to consummate the transaction, including the bonds
15 authorized herein. The Mayor and Clerk are hereby expressly
16 authorized to approve any modifications or additions to the docu-
17 ments to be executed by the City which are approved herein which
18 take place after the date of this Ordinance with the review and
19 advice of the City Attorney; it being the express understanding of
20 this Common Council that said documents to be executed by the City
21 are in substantially final form as of the date of this Ordinance.
22 The approval of said modifications or additions shall be conclusi-
23 vely evidenced by the execution and attestation thereof and the
24 affixing of the seal thereto or the imprinting of the seal thereon;
25 provided, however, that no such modification or addition shall
26 change the maximum principal amount of, interest rate on or term of
27 the bonds as approved by the Common Council by this Ordinance
28 without further consideration by the Common Council. The signatures
29 of the Mayor and Clerk on the bonds may be either manual or fac-
30 simile signatures. The Clerk is authorized to arrange for delivery
31 of such bonds to the Trustee named in the Trust Indenture, and
32 payment for the bonds will be made to the Trustee named in the Trust

1 Indenture and after such payment the bonds will be delivered by the
2 Trustee to the purchasers thereof. The Mayor and Clerk shall exe-
3 cute and the Clerk shall deliver the bonds to the Trustee within
4 ninety days of the adoption of this ordinance. The bonds shall be
5 dated the date of authentication thereof.

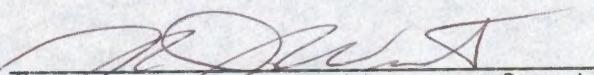
6 SECTION 8. The provisions of this Ordinance and the Trust
7 Indenture securing the bods shall constitute a contract binding bet-
8 between the City of Fort Wayne and the holder of the Economic
9 Development Revenue Bonds (Edy's Grand Ice Cream Project) Series
10 1985, and after the issuance of said bonds, this Ordinance shall not
11 be repealed or amended in any respect which would adversely affect
12 the rights of such holders so long as any of said bonds or the
13 interest thereon remains unpaid.

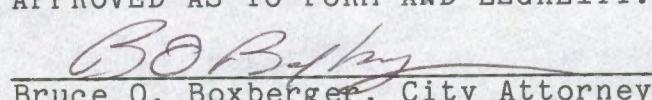
14 SECTION 9. This Ordinance shall be in full force and
15 effect from and after its passage and signing by the Mayor.



COUNCILMAN

16 ADOPTED BY ECONOMIC DEVELOPMENT COMMISSION
17 AND APROVED AS TO FORM.

18 
John J. Wernet, Attorney for the
Economic Development Commission
Dated this 10th day of August, 1985

19 APPROVED AS TO FORM AND LEGALITY.
20 
21 Bruce O. Boxberger, City Attorney
Dated this 10th day of August, 1985.

Read the first time in full and on motion by E. Esterh, seconded by Peter, and duly adopted, read the second time by title and referred to the Committee Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne Indiana, on 19, the 19 day of August o'clock .M., E.

DATE: 8-13-85

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by E. Esterh, seconded by Steve, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>BRADBURY</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>BURNS</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>EISBART</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>GiaQUINTA</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>HENRY</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>REDD</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>SCHMIDT</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>STIER</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>TALARICO</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>

DATE: 8-27-85

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)
(SPECIAL) (ZONING MAP) ORDINANCE (RESOLUTION) NO. J-153-85
on the 27th day of August, 1985.

ATTEST:

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

(SEAL)

Mark E. GiaQuinta
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana,
on the 28th day of August, 1985,
at the hour of 11:30 o'clock A. M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 29th day of August,
1985, at the hour of 8:30 o'clock A. M., E.S.T.

Win Moses Jr.
WIN MOSES, JR., MAYOR

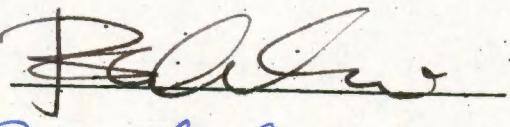
BILL NO. S-85-08-04

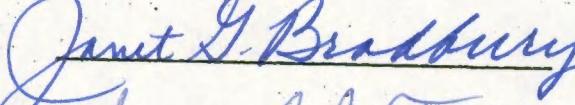
REPORT OF THE COMMITTEE ON FINANCE

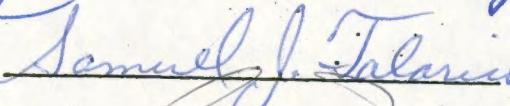
WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS
REFERRED AN (ORDINANCE) (RESOLUTION) ORDINANCE AUTHORIZING THE
CITY OF FORT WAYNE TO ISSUE ITS "ECONOMIC DEVELOPMENT REVENUE BONDS
(EDY'S GRAND ICE CREAM PROJECT) SERIES 1985" AND APPROVING OTHER
ACTIONS IN RESPECT THERETO

HAVE HAD SAID (ORDINANCE) (RESOLUTION) UNDER CONSIDERATION AND BEG
LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE)

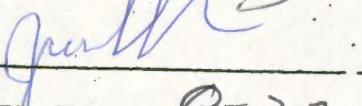
(RESOLUTION) DO PASS DO NOT PASS WITHDRAWN
YES NO

 BEN A. EISBART
CHAIRMAN

 JANET G. BRADBURY
VICE CHAIRWOMAN

 SAMUEL J. TALARICO

 THOMAS C. HENRY

 JAMES S. STIER

CONCURRED IN 8-27-85

SANDRA E. KENNEDY
CITY CLERK